Manitoba

Annual Report 1999

Office of the Commissioner
Law Enforcement Review Agency

Includes 10% post-consumer waste

100-07223/

MINISTER OF JUSTICE
ATTORNEY GENERAL

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

His Honour
The Honourable Peter Liba
Lieutenant-Governor of Manitoba

May It Please Your Honour:

It is my pleasure to present the 1999 Annual Report of the Law Enforcement Review Agency. This report details the Agency's accomplishments and activities for the twelve-month period from January 1, 1999 to December 31, 1999.

I trust this meets with your approval.

Yours truly,

Gord Mackintosh
Minister of Justice
Attorney General

Manitoba 2000
Our Past. Our Future. Our Celebration.
Notre passé. Notre avenir. Notre fête.

Manitoba

Justice Law Enforcement Review Agency

200-379 Broadway
Winnipeg MB Canada
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(204) 948-2740 Fax

The Honourable Gord Mackintosh
Minister of Justice
Attorney General

Dear Minister:

I am please to submit my report for the period January 1, 1999 to December 31, 1999 in accordance with Section 45 of *The Law Enforcement Review Act.*

Yours sincerely,

G. V. Wright

George V. Wright
Commissioner

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LERA'S MISSION STATEMENT

The mission of the Law Enforcement Review Agency (LERA) is to deliver a judicious, timely, impartial, client-oriented service to the public and to the police services and police officers within its jurisdiction.

LERA'S ROLE

LERA is an independent, non-police agency whose role is to accept and investigate public complaints alleging disciplinary defaults by municipal police officers, arising out of or, in the execution of their duties.

Trained investigators conduct investigations in an impartial, open and publicly accountable manner.

The Commissioner of LERA is appointed by the Lieutenant Governor in Council and has such powers and carries out such duties and functions as are conferred or imposed under *The Law Enforcement Review Act*. For purposes of conducting investigations, the Commissioner of LERA has all the powers of a Commissioner under Part V of The Manitoba Evidence Act.

The Commissioner has a responsibility to provide complainants with detailed and thorough explanations of all findings resulting from an investigation. The Commissioner must provide written reasons for decisions made in relation to specific complaints.

As a public-service agency, LERA actively supports and, whenever possible, engages in alternative dispute resolution processes aimed at restoring and promoting social harmony between the complainant and a respondent police officer.

How the LERA Process Functions

LERA is an independent non-police agency established in 1985. It is mandated by *The Law Enforcement Review Act* (the "Act") to accept and investigate public complaints alleging disciplinary defaults by municipal police officers, arising out of or, in the execution of their duties.

LERA does not investigate criminal matters. Complaints involving allegations of criminal misconduct by municipal police officers are referred to the Crown Attorney's office for investigation.

LERA is staffed by a full-time Commissioner who is supported by a registrar and two investigators.

To whom does the Act apply?

The Act applies to any peace officer employed as a member of a municipal police force, or any person otherwise empowered by regulation to act as a peace officer within a designated law enforcement body in Manitoba, except members of the RCMP.

If a person has a complaint against a member of the RCMP, he or she is directed to contact the RCMP Public Complaints Commission.

Who can make a complaint to LERA?

Any person who feels aggrieved by the conduct or actions of an on-duty municipal peace officer in Manitoba may file a complaint under the Act.

Third-party complaints may be made on behalf of other persons. The Commissioner must notify the affected person and obtain their consent before proceeding with an investigation into the complaint.

How is a complaint filed?

A complaint must be in writing and signed by the complainant. A complainant's statement should set out the date, time, location and other particulars of the incident being complained about. If a complainant needs help preparing a complaint or making a statement, LERA staff or members of the local police service may assist them.

Complaints can be submitted directly to the Commissioner at the LERA office, to a Chief of Police, or to any member of a municipal police department. Complaints filed with police agencies are forwarded to the LERA Commissioner for investigation.

Are there any time limits?

The Act requires that complaints be submitted within 30 days of the incident. The Commissioner may extend the time to file if the complainant did not have a reasonable opportunity to file a complaint within the required time limit.

The Commissioner may also extend the 30-day filing limit, in order to avoid conflict with court proceedings or ongoing criminal investigations, when criminal charges have been laid against the complainant in relation to the incident being complained about.

How is a complaint investigated?

LERA investigators take statements, obtain and review official police reports, medical and other reports. They also interview witnesses and conduct all necessary inquiries and investigations.

Complainants are encouraged to contact the Commissioner's office, during the course of the investigation, to inquire about the status of their complaint. The Commissioner shares all relevant information with complainants and respondents, and is open to discuss any findings with them before making a final determination on their complaint.

Legal Representation

Complainants and respondents do not require legal representation when dealing with LERA. Parties to a complaint are entitled to be represented by legal or other counsel at any time during the process. If complainants or respondents choose to be represented, they must arrange for and provide those services themselves.

Respondent officers are generally represented by legal counsel, as provided under their employment services contracts. Complainants may apply for legal aid. If they are denied assistance the Commissioner may, in exceptional circumstances, apply directly to the Attorney General for the appointment of legal counsel.

Complaint Resolution

After an investigation is completed, the Act provides several alternative means for resolving complaints.

(i) Informal Resolution

Whenever possible, the Commissioner will attempt to resolve complaints through an informal mediated process. Both the complainant and the respondent officer(s) must agree to an informal resolution before it can take place. When a complaint is resolved in an informal manner, it is not subject to any further appeal or action, and no record of the incident appears on the officer's service record.

(ii) Admission of Disciplinary Default

When the respondent officer(s) admits having committed the alleged misconduct, the Commissioner reviews the officer's service record and consults with the Chief of Police before penalty is imposed for the disciplinary default.

(iii) Referral to a Provincial Judge for Hearing

When a complaint cannot be resolved through an informal process or by admission of disciplinary default by the respondent officer(s), and if the Commissioner does not decline to take further action, the Commissioner must refer the complaint to a provincial judge for disposition at a public hearing.

Circumstances When Further Action Is Declined:

The Commissioner shall decline to take further action on a complaint when satisfied that:

(a) The subject matter of a complaint is frivolous or vexatious.

(b) The actions or conduct complained about do not fall within the scope of the Act.

(c) The complainant has abandoned the complaint.

(d) There is insufficient evidence supporting the complaint to justify referring it to a provincial judge for a public hearing.

When the Commissioner declines to take further action on a complaint, the complainant may request a review of the Commissioner's decision. This request for a review must be filed within 30 days after the notice of the Commissioner's decision has been sent. Reviews are arranged by LERA without cost to the complainant. A provincial judge conducting the review acts *persona designata,* and not as a court, when performing a duty or exercising a power under this Act. The decision of a provincial judge on a review is final.

Police Disciplinary Default

A member commits a disciplinary default when he/she affects the complainant or any other person by means of any of the following acts or omissions, arising out of or, in the execution of his duties:

- Abuse of authority, including:
  - Making an arrest without reasonable or probable grounds.
  - Using unnecessary violence or excessive force.
  - Using oppressive or abusive conduct or language.
  - Being discourteous or uncivil.
  - Seeking improper pecuniary or personal advantage.
  - Without authorization, serving or executing documents in a civil process.
  - Discriminating on the basis of race, nationality, religion, colour, sex, marital status, physical or mental handicap, age, source of income, family status, political belief, or ethnic or national origin.

- Making a false statement, or destroying, concealing, or altering any official document or record.

- Improperly disclosing any information acquired as a member of the police department.

- Failing to exercise discretion or restraint in the use and care of firearms.

- Damaging property or failing to report the damage.

- Being present and failing to assist any person in circumstances where there is a clear danger to the safety of that person or the security of that person's property.
- Violating the privacy of any person within the meaning of The Privacy Act.
- Contravening this Act or any other regulation under this Act, except where the Act or regulation provides a separate penalty for the contravention.
- Assisting any person in committing a disciplinary default, or counselling or procuring another person to commit a disciplinary default.

Penalties for Disciplinary Default:

The penalty for an officer found guilty of any of the above disciplinary defaults are set out in the Act in diminishing order of seriousness, as follows:

- Dismissal
- Permission to resign and, in default of resignation within seven days, summary dismissal.
- Reduction in rank.
- Suspension without pay up to a maximum of 30 days.
- Forfeiture of pay up to a maximum of ten days pay.
- Forfeiture of leave or days off not to exceed 10 days.
- A written reprimand.
- A verbal reprimand.
- An admonition.

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1999 STATISTICAL REPORT- DATA TABLES

Table 1- Public Complaints	1999	1998	1997	1996	1995
Complaints Received	415	349	303	291	228
Resolved at Intake/After Preliminary Investigation	197 (47%)	182 (52%)	169 (56%)	164 (56%)	123 (54%)
Requiring Full Investigation	218 (53%)	167 (48%)	134 (44%)	127 (44%)	105 (46%)

Increase in Complaints

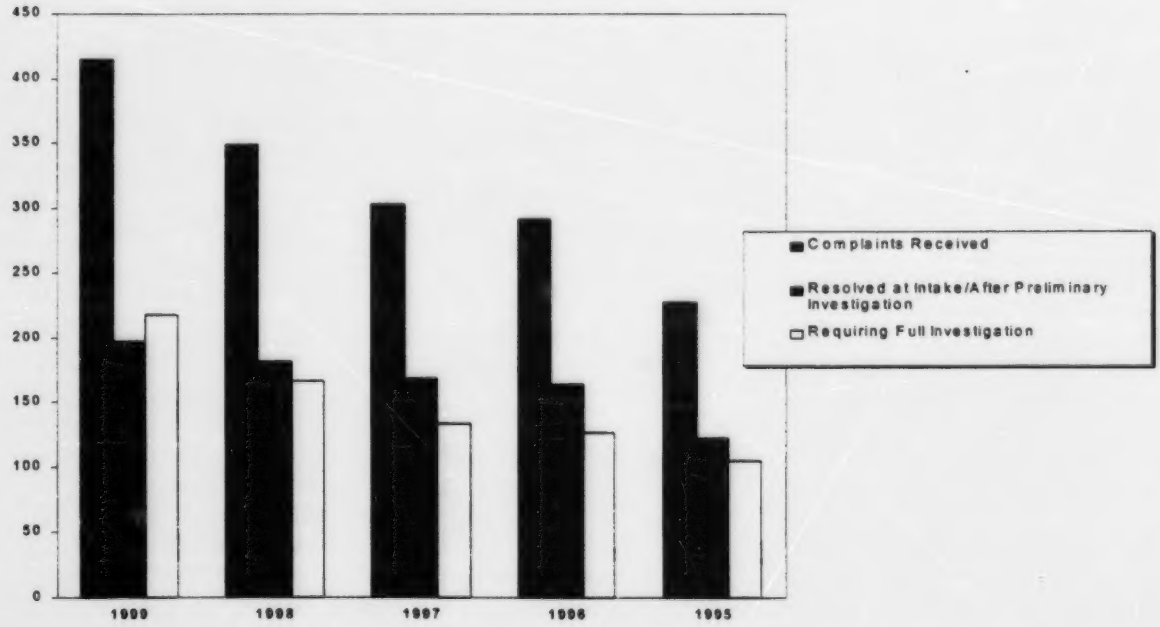
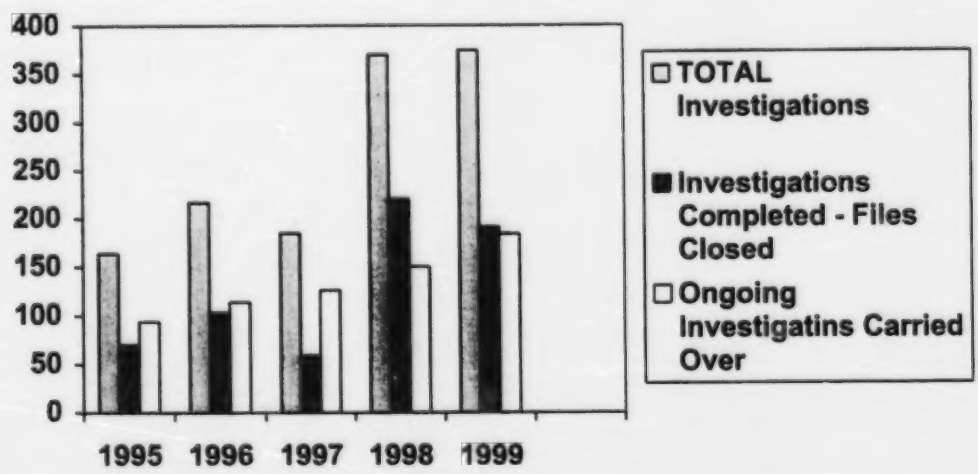


Table 2-Investigations Conducted	1999	1998	1997	1996	1995
Total Investigations	375	370	185	217	164
Investigations Completed – Files Closed	191(51%)	220(59%)	59 (32%)	103 (48%)	70(43%)
Ongoing Investigations Carried Over as of December 31, 1999	184(49%)	150(41%)	126(68%)	114 (52%)	94(57%)

Investigations Conducted



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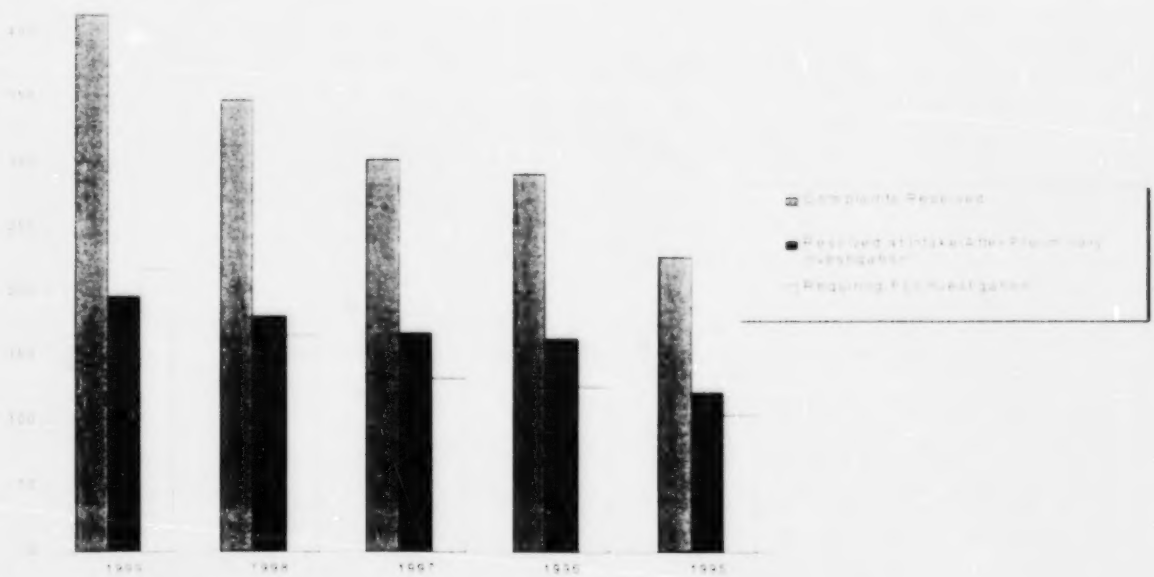

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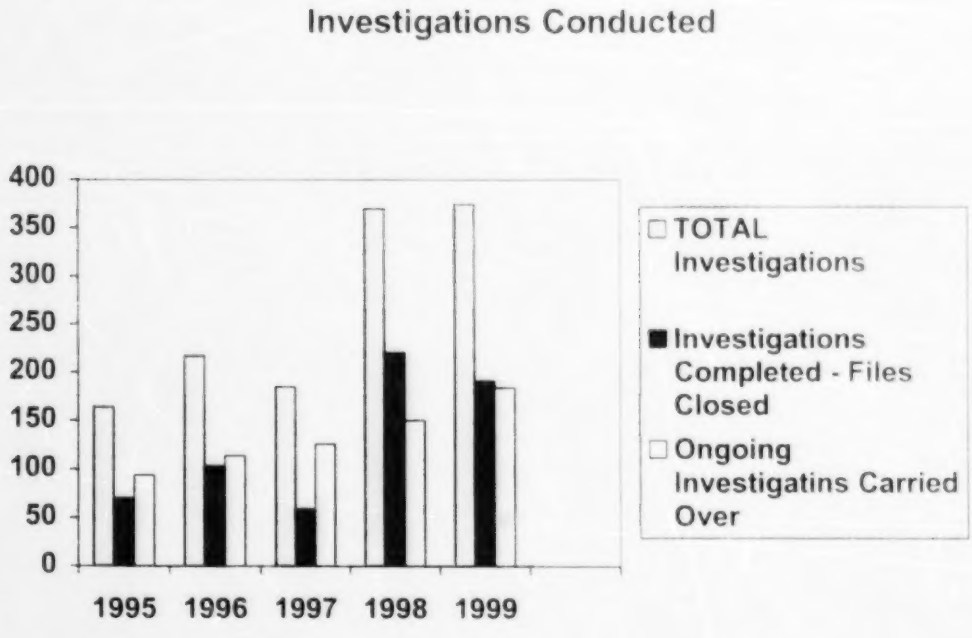


Table 3 – Time Span of Ongoing Investigations Carried Over as of December 31, 1999

Year	1 - 3 Months	4 – 7 Months	8 – 12 Months	13 – 18 Months	19 – 23 Months	24 + Months	Total
1996						1	1
1997						2	2
1998			6	10	6		22
1999	81	50	28				159
Total	81	50	34	10	6	3	184

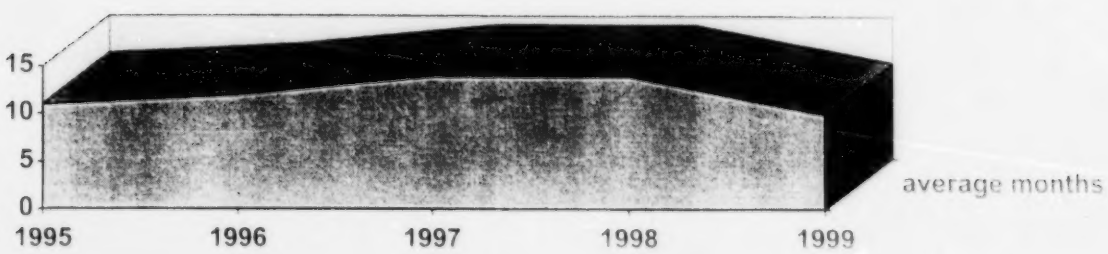
Table 4 - Files Concluded in 1999 by Year of Origin

Year	Number of Files	Average Time to Close Investigation
1996	10	33 Months
1997	15	22 Months
1998	106	9 Months
1999	60	6 Months
Total	191	10 Months

Table 5- LENGTH OF TIME TO COMPLETE INVESTIGATIONS

	1999 (n=191)	1998 (n=220)	1997 (n=59)	1996 (n=102)	1995 (n=70)
1-3 Months	19 (10%)	9 (4%)	6 (10%)	5(5%)	3 (4%)
4-7 Months	71 (37%)	38 (17%)	4 (7%)	14 (14%)	17 (25%)
8-12 Months	54 (28%)	60 (27%)	14 (24%)	36 (35%)	26 (37%)
13-18 Months	25 (13%)	52 (24%)	26 (44%)	37 (36%)	18 (26%)
19-23 Months	7 (4%)	39 (18%)	6 (10%)	8 (8%)	5 (7%)
24+ Months	15 (8%)	22 (10%)	3 (5%)	2 (2%)	1 (1%)
Average	10 Months	14 Months	14 Months	12 Months	11 Months

Average Number of Months to Complete Investigation



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4-7 Months	71 (37%)	38 (17%)	4 (7%)	14 (14%)	17 (25%)
8-12 Months	54 (28%)	60 (27%)	14 (24%)	36 (35%)	26 (37%)
13-18 Months	25 (13%)	52 (24%)	26 (44%)	37 (36%)	18 (26%)
19-23 Months	7 (4%)	39 (18%)	6 (10%)	8 (8%)	5 (7%)
24+ Months	15 (8%)	22 (10%)	3 (5%)	2 (2%)	1 (1%)
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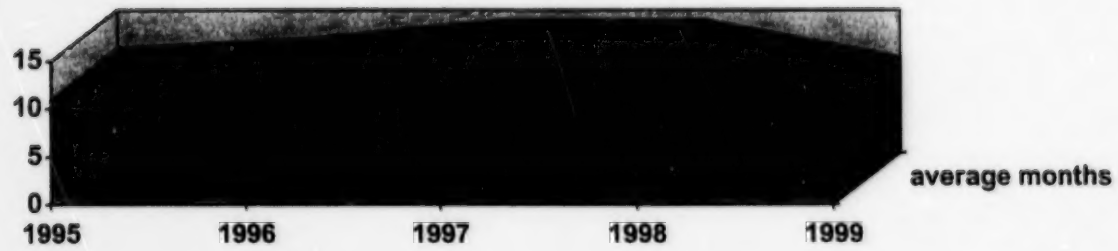

Table 6 COMPLAINANT DEMOGRAPHICS	[illegible]	[illegible]	[illegible]	[illegible]	1995 (n=105)
Sex					
Male	143 (66 %)	109 (65%)	104 (78%)	99 (78%)	77 (73%)
Female	75 (34%)	58 (35%)	30 (22%)	28 (22%)	28 (27%)
Age					
Over 50	24 (11%)	19 (11%)	13 (10%)	11 (9%)	9 (9%)
40 – 49	42 (19%)	36 (22%)	21 (15%)	15 (12%)	13 (12%)
30 – 39	55 (25%)	44 (26%)	33 (25%)	35 (27%)	26 (25%)
18 – 29	52 (24%)	41 (25%)	35 (26%)	44 (35%)	32 (31%)
Youths under 18	13 (6%)	12 (7%)	13 (10%)	10 (8%)	11 (10%)
Birth dates unknown	32 (15%)	15 (9%)	19 (14%)	12 (9%)	14 (13%)

Table 7-Legal Involvement of Complainants	1999 (n=218)	1998 (n=167)	1997 (n=134)	1996 (n=127)	1995 (n=105)
No Charges	112 (51%)	66 (39%)	44 (33%)	46 (36%)	42 (40%)
Traffic Offences	16 (7%)	20 (12%)	16 (12%)	16 (13%)	13 (12%)
Property Offences	8 (4%)	4 (2%)	10 (7%)	12 (9%)	11 (10%)
Intoxicated Persons Detention	12 (6%)	8 (5%)	10 (7%)	13 (10%)	12 (11%)
Cause Disturbance	1 (0.45%)	5 (3%)	5 (4%)	4 (3%)	2 (2%)
Assault Police Officer/Resist Arrest	6 (3%)	8 (5%)	7 (5%)	5 (4%)	2 (2%)
Impaired Driving	6 (3%)	6 (4%)	9 (7%)	4 (3%)	5 (5%)
Offences Against Another Person	16 (7%)	12 (7%)	8 (6%)	10 (8%)	6 (6%)
Domestic Disputes	11 (5%)	6 (4%)	7 (5%)	7 (6%)	3 (3%)
Other	30 (14%)	32 (19%)	18 (14%)	10 (8%)	9 (9%)

Table 8- Complainant's Allegations	1999	1998	1997	1996	1995
Abuse of authority	94	40	16	5	14
Arrest without reasonable or probable grounds	17	16	7	4	6
Using unnecessary or excessive force	77	80	63	70	45
Using oppressive or abusive conduct or language	84	53	52	94	51
Being discourteous or uncivil	71	45	34	45	35
Seeking improper personal advantage	1	0	0	4	0
Serving civil documents without proper authorization	0	2	0	0	0
Discrimination (age, race, sex, all types)	9	6	5	2	5
Making false statement(s)	7	1	1	3	4
Improperly disclosing information	8	2	4	0	2
Failing to exercise care or restraint in use of firearm	1	2	2	3	0
Damaging property or failing to report damage	3	3	2	4	3
Failing to provide assistance to person(s) in danger	3	2	2	8	8
Violating persons privacy (under The Privacy Act)	2	1	0	0	0
Contravening *The Law Enforcement Review Act*	0	0	0	0	0

Note: Complainants often allege more than one type of misconduct

Table 6 – COMPLAINANT DEMOGRAPHICS	1999 (n=218)	1998 (n=167)	1997 (n=134)	1996 (n=127)	1995 (n=105)
Sex					
Male	143 (66%)	109 (65%)	104 (78%)	99 (78%)	77 (73%)
Female	75 (34%)	58 (35%)	30 (22%)	28 (22%)	28 (27%)
Age					
Over 50	24 (11%)	19 (11%)	13 (10%)	11 (9%)	9 (9%)
40 – 49	42 (19%)	36 (22%)	21 (15%)	15 (12%)	13 (12%)
30 – 39	55 (25%)	44 (26%)	33 (25%)	35 (27%)	26 (25%)
18 – 29	52 (24%)	41 (25%)	35 (26%)	44 (35%)	32 (31%)
Youths under 18	13 (6%)	12 (7%)	13 (10%)	10 (8%)	11 (10%)
Birth dates unknown	32 (15%)	15 (9%)	19 (14%)	12 (9%)	14 (13%)

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Property Offences	8 (4%)	4 (2%)	10 (7%)	12 (9%)	11 (10%)
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Cause Disturbance	1 (0.45%)	5 (3%)	5 (4%)	4 (3%)	2 (2%)
Assault Police Officer/Resist Arrest	6 (3%)	8 (5%)	7 (5%)	5 (4%)	2 (2%)
Impaired Driving	6 (3%)	6 (4%)	9 (7%)	4 (3%)	5 (5%)
Offences Against Another Person	16 (7%)	12 (7%)	8 (6%)	10 (8%)	6 (6%)
Domestic Disputes	11 (5%)	6 (4%)	7 (5%)	7 (6%)	3 (3%)
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Table 8- Complainant's Allegations	1999	1998	1997	1996	1995
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Arrest without reasonable or probable grounds	17	16	7	4	6
Using unnecessary or excessive force	77	80	63	70	45
Using oppressive or abusive conduct or language	84	53	52	94	51
Being discourteous or uncivil	71	45	34	45	35
Seeking improper personal advantage	1	0	0	4	0
Serving civil documents without proper authorization	0	2	0	0	0
Discrimination (age, race, sex, all types)	9	6	5	2	5
Making false statement(s)	7	1	1	3	4
Improperly disclosing information	8	2	4	0	2
Failing to exercise care or restraint in use of firearm	1	2	2	3	0
Damaging property or failing to report damage	3	3	2	4	3
Failing to provide assistance to person(s) in danger	3	2	2	8	8
Violating persons privacy (under The Privacy Act)	2	1	0	0	0
Contravening *The Law Enforcement Review Act*	0	0	0	0	0

Note: Complainants often allege more than one type of misconduct

Table 9 – Incident Alleging Misuse of Pepper Spray			
1999 (n=4)	**1998 (n=6)**	**1997 (n=5)**	**1996 (n=13)**
2% of 218 Complaints Investigated Winnipeg = 3 Brandon = 1	4% of 167 Complaints Investigated Winnipeg = 6	4% of 134 Complaints Investigated Winnipeg = 4 Brandon = 1	10% of 126 Complaints Investigated Winnipeg = 13

Table 10 – Incidents Alleging Misuse of Handcuffs		
1999 (n=15)	**1998 (n=12)**	**1997 (n=9)**
7% of 218 Complaints Investigated Winnipeg = 13 Brandon = 2	7% of 167 Complaints Investigated Winnipeg = 6 Brandon = 2 Altona = 1	7% of 134 Complaints Investigated Winnipeg = 7 Brandon = 2

Table 11 – Incidents Alleging Injuries from Use of Force			
1999 (n=56)	**1998 (n=44)**	**1997 (n=40)**	**1996 (n=67)**
26% of 218 Complaints Investigated Winnipeg = 52 Brandon = 4	26% of 167 Complaints Investigated Winnipeg = 39 Brandon = 5	30% of 134 Complaints Investigated Winnipeg = 36 Brandon = 4	53% of 126 Complaints Investigated Winnipeg = 64 Brandon = 3

Table 12 - Location of Incident	1999 (n=218)	1998 (n=167)	1997 (n=134)	1996 (n=127)	1995 (n=105)
Street	74 (34%)	63 (38%)	61 (46%)	44 (35%)	44 (42%)
Private Residence	67 (31%)	56 (34%)	37 (28%)	44 (35%)	24 (23%)
Public Building/Place	24 (11%)	20 (12%)	18 (13%)	8 (6%)	16 (15%)
Police Station	28 (13%)	20 (12%)	12 (9%)	26 (20%)	13 (12%)
Other	25 (11%)	8 (4%)	6 (4%)	5 (4%)	8 (8%)

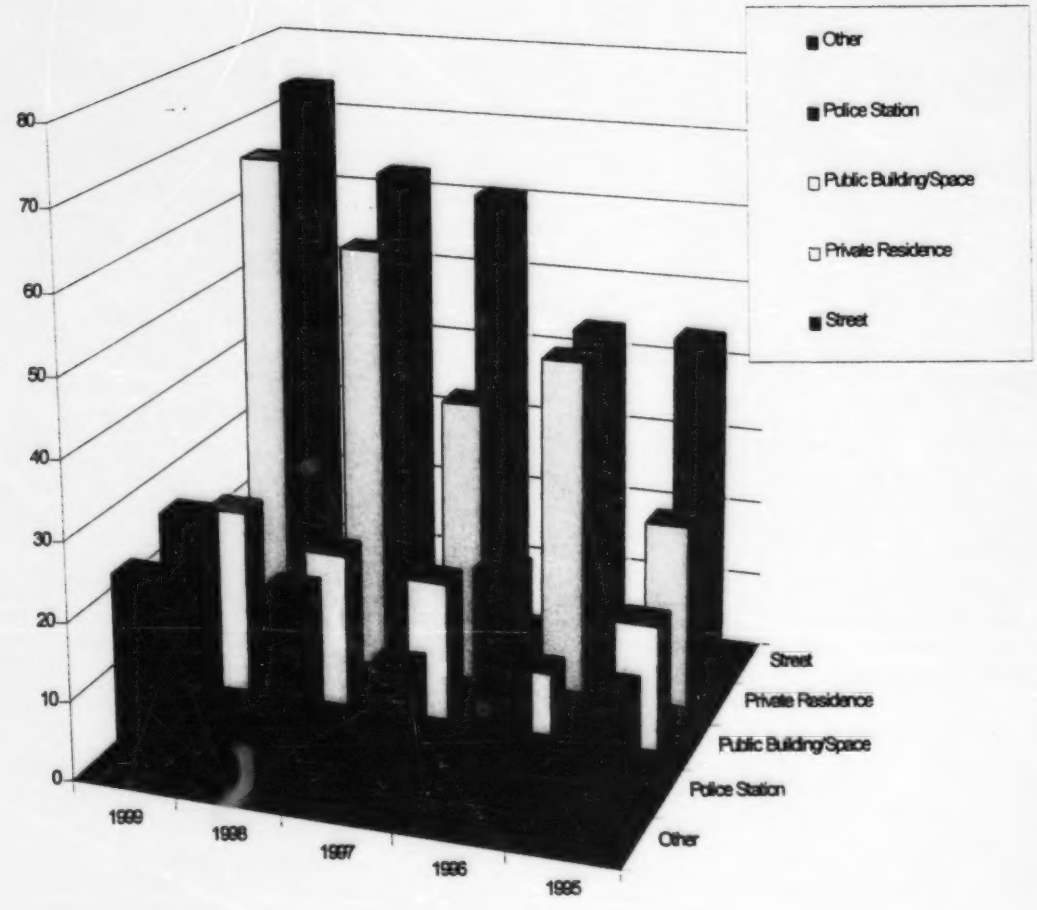

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Table 10 – Incidents Alleging Misuse of Handcuffs

1999 (n=15)	1998 (n=12)	1997 (n=9)
7% of 218 Complaints Investigated Winnipeg = 13 Brandon = 2	7% of 167 Complaints Investigated Winnipeg = 6 Brandon = 2 Altona = 1	7% of 134 Complaints Investigated Winnipeg = 7 Brandon = 2

Table 11 – Incidents Alleging Injuries from Use of Force

1999 (n=56)	1998 (n=44)	1997 (n=40)	1996 (n=67)
26% of 218 Complaints Investigated Winnipeg = 52 Brandon = 4	26% of 167 Complaints Investigated Winnipeg = 39 Brandon = 5	30% of 134 Complaints Investigated Winnipeg = 36 Brandon = 4	53% of 126 Complaints Investigated Winnipeg = 64 Brandon = 3

Table 12 - Location of Incident	1999 (n=218)	1998 (n=167)	1997 (n=134)	1996 (n=127)	1995 (n=105)
Street	74 (34%)	63 (38%)	61 (46%)	44 (35%)	44 (42%)
Private Residence	67 (31%)	56 (34%)	37 (28%)	44 (35%)	24 (23%)
Public Building/Place	24 (11%)	20 (12%)	18 (13%)	8 (6%)	16 (15%)
Police Station	28 (13%)	20 (12%)	12 (9%)	26 (20%)	13 (12%)
Other	25 (11%)	8 (4%)	6 (4%)	5 (4%)	8 (8%)

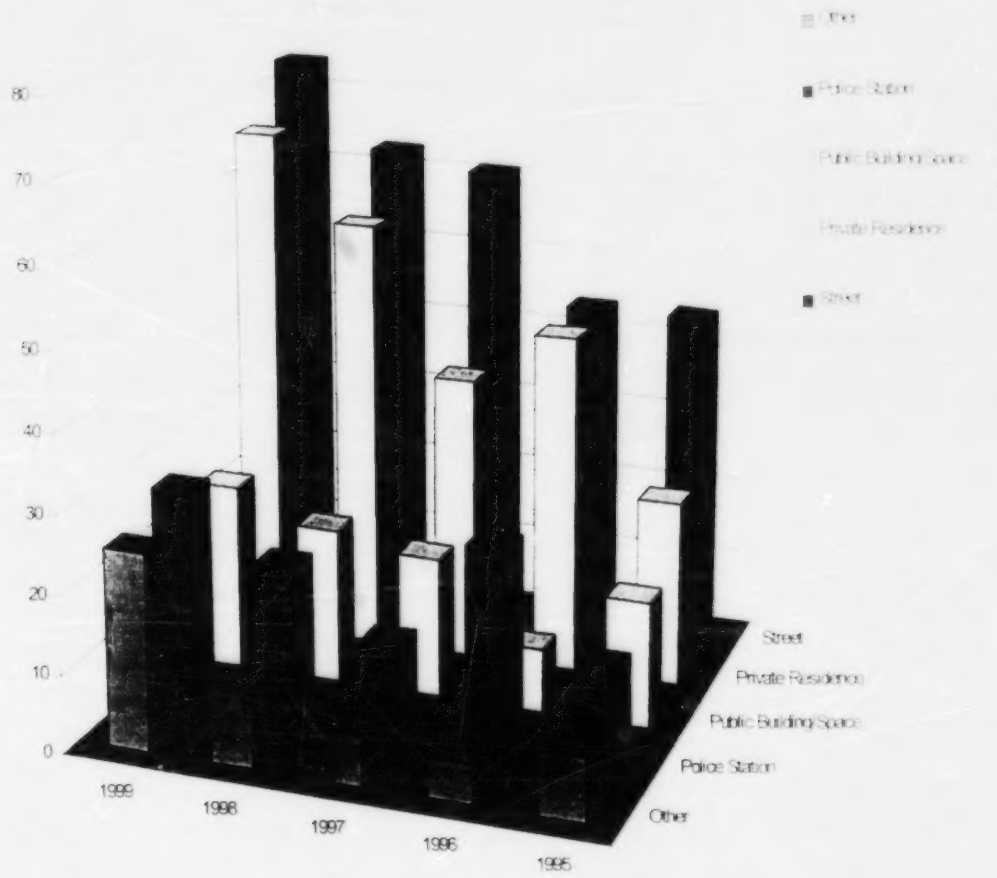

Table 13 - Complaints by Police Service	Police Officers **	Population ***	1999 (n=218)	1998 (n=167)	1997 (n=134)	1996 (n=127)	1995 (n=105)
Altona	7	3,288	0 (0%)	3 (2%)	0 (0%)	0 (0%)	2 (2%)
Brandon	72	39,175	24(11%)	19(11%)	17 (13%)	14 (11%)	16 (15%)
RM East St. Paul	9	6,437	0 (0%)	0 (0%)	0 (0%)	2 (1.5%)	1 (1%)
Morden	6	5,689	1 (0.45%)	3 (2%)	0 (0%)	0 (0%)	0 (0%)
Rivers	3	1,117	0 (0%)	0 (0%)	0 (0%)	1 (1%)	0 (0%)
Gilbert Plains	1	748	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Ste. Anne	3	1,511	3 (1%)	0 (0%)	0 (0%)	2 (1.5%)	0 (0%)
Winkler	8	7,241	1 (0.45%)	1 (1%)	0 (0%)	1 (1%)	0 (0%)
Winnipeg	1202	618,477	189(87%)	141(84%)	117(87%)	107 (84%)	86 (82%)
Dakota Ojibway	15	4,733	0 (0%)				
*RM Cornwallis	1	4,279	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
*RM St Clements	2	8,516	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
*RM Victoria Beach	3	227	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
*RM of Whitehead	1	1,535	0 (0%)	0 (0%)			
Other			0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Total	1323	702,225	100%	100%	100%	100%	100%

*Supplementary Police Service - RCMP have Primary Responsibility

**Source: Municipal Police Services

***Source: Municipal Officials' 98, Manitoba Rural Development

NOTE: Dakota Ojibway Police Service (DOPS) came under LERA jurisdiction by Order in Council 284/1999 dated June 30th, 1999 and includes Birdtail Sioux, Canupawakpa, Roseau River and Sioux Valley First Nations.

Table 14 – Disposition of Complaints	1999 (n=191)	1998 (n=220)	1997 (n=59)	1996 (n=103)	1995 (n=70)
Dismissed by Commissioner as Outside Scope of Act	24 (13%)	7 (3%)	1 (2%)	1 (1%)	2 (3%)
Dismissed by Commissioner as Frivolous or Vexatious	6(3%)	61 (28%)	10 (16%)	15 (14%)	11 (17%)
Dismissed by Commissioner as Not Supported by Sufficient Evidence to Justify a Hearing	49 (26%)	72 (32%)	34 (57%)	46 (45%)	24 (34%)
Abandoned or Withdrawn by Complainant	79 (41%)	59 (27%)	8 (14%)	36 (35%)	24 (34%)
Resolved Informally	22 (12%)	15 (7%)	1 (2%)	4 (4%)	7 (10%)
Public Hearing Before a Provincial Court Judge	10 (5%)	6 (3%)	4 (7%)	1 (1%)	1 (1%)
Admission of Guilt by Respondent Officer	1 (0.5%)	0 (0%)	1 (2%)	0 (0%)	1 (1%)

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Ste. Anne	3	1,511	3 (1%)	0 (0%)	0 (0%)	2 (1.5%)	0 (0%)
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*RM Cornwallis	1	4,279	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
*RM St.Clements	2	8,516	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
*RM Victoria Beach	3	227	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
*RM of Whitehead	1	1,535	0 (0%)	0 (0%)			
Other			0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Total	1323	702,225	100%	100%	100%	100%	100%

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Table 15- Reviews by Provincial Judge of Commissioner's Decision to Take no Further Action	1999	1998	1997	1996	1995
	13	10	5	3	1

Table 16- Referrals of Complaint to Crown for Criminal Investigation	1999	1998	1997	1996	1995
	2	3	1	1	4

Table 17- LERA Complaints Where Complainant Has Also Lodged A Criminal Complaint With Police	1999	1998	1997	1996
	11	0	0	0

Table 15- Reviews by Provincial Judge of Commissioner's Decision to Take no Further Action	1999	1998	1997	1996	1995
	13	10	5	3	1

Table 16- Referrals of Complaint to Crown for Criminal Investigation	1999	1998	1997	1996	1995
	2	3	1	1	4

Table 17- LERA Complaints Where Complainant Has Also Lodged A Criminal Complaint With Police	1999	1998	1997	1996
	11	0	0	0

Case Summaries

Informal Resolution of Complaints

The following is a summary of some of the complaints that were resolved informally in 1999:

- A youth was in a park with several of his friends when a lady, accompanied by very small children, asked them to stop using foul language. The youth verbally berated the lady with more foul language. This incident was witnessed by another adult who was in the park with his children. The lady left to call police while the youth and his friends moved to another area of the park. The police officer arrived, accompanied by an auxiliary constable. The youth was placed in the police cruiser where a discussion took place. The youth alleged that during this discussion the officer swore at him, threatened to beat him and called him an inappropriate name.

The complaint was eventually resolved informally during a meeting with the complainant, his mother and the arresting officer. The officer admitted swearing at the youth but denied threatening him or calling him an inappropriate name. The officer apologized for swearing at the youth. During this meeting, the youth admitted directing foul language toward the lady and he also apologized for his actions.

- The complainant and his ex-wife are involved in a continuing dispute over access to their children. The ex-wife called police alleging that the complainant was abusing his children and was refusing to release them to her. When police arrived at the complainant's apartment, he had his video camera on and he recorded the event on tape. The complainant explained to the officers that his wife had verbally agreed to his having the children at that time and that he had audio taped a telephone conversation in which she had given him permission. The complainant alleged that the officers were abusive to him and would not listen to the audio tape of his ex-wife agreeing to the visit. The complainant also related that, when his ex-wife called the police on him three days later, the officers who attended showed much more empathy in dealing with him.

The complaint was informally resolved during a meeting between the complainant, his sister, who was also present during the first meeting with police, and the patrol Sergeant who had been called to the scene in the initial instance. The constables involved declined to participate in the informal resolution meeting. The complainant explained his frustration with his ex-wife's apparently

false accusations resulting in police visits to his residence. The patrol Sergeant explained the actions of the officers. He also stated that he did ask to listen to the audio tape of the complainant's ex-wife regarding access to his children at that time. The complainant was satisfied that he had been given the opportunity to explain to a police officer the difficulties he had been having with court orders and access to his children.

- A lawyer filed a complaint, on behalf of her client, alleging that an officer, investigating a possible breach of probation order, had made threatening comments to the client respecting his civil law suit. The lawyer perceived these comments as obstruction of justice in an effort to intimidate her client into discontinuing his civil suit.

The complaint was resolved informally during a meeting with the complainant and the officer. When the context of the investigation was explained to the complainant, he understood that the comments made were advisory in nature rather than threatening.

- The complainant had been called to the police station because his father, a recent immigrant who spoke no English, had been arrested for sexual assault. The complainant felt that the senior officer had abused his authority by seizing his father's passport, and that the arrest was not based on reasonable and probable grounds. He also felt this officer was discourteous to him when he tried to explain his father's health problems.

The complaint was informally resolved during a meeting with the complainant, his father and the officer. The officer explained the legal necessity of seizing the passport and the fact that he had not treated the elder gentleman any differently than he would have treated anyone else under the same circumstance. The officer expressed his regret that he could not have spent more time with the complainant on the night of the arrest because of constant interruptions by other business. Although the father did not actively participate in the meeting, the officer apologized to him for the stress that had been caused by what turned out to be a false accusation. The complainant translated this apology to his father. Both the complainant and the officer expressed satisfaction, saying that this was a good learning experience for both of them. The complainant learned more about how Canadian law works and the officer learned more about other cultures.

- In the early morning hours, the complainant was called to the police station to pick up her son. She was told he had been arrested with other youths for liquor act violations. When she and another mother spoke with the officer at the station, she was informed that the police investigation of the youths included a break and enter offence. When the officer led her son away to an

interview room, the complainant attempted to follow and she was prevented from doing so. There was a minor struggle and she was injured. The complainant alleged that the officer abused his authority by not allowing her to be with her son during the interview and that he used excessive force in restraining her.

The complaint was informally resolved during a meeting with the complainant and the officer. The complainant was informed that youth have the right to request a parent be present during an interview by police, but in this case the youth was seen giving his mother a cigarette package suspected to contain proceeds of the break and enter. This made her a potential accomplice, so she could not be in the interview room with her son. Arrangements were made for her to receive an ex-gratia cheque to cover her chiropractic expenses.

Reviews by Provincial Judge of Commissioner's Decision to Take no Further Action

In 1999 there were thirteen applications by complainants to have the Commissioner's decision reviewed by a Provincial Judge. Six cases were dismissed and the Commissioner's decision upheld. Two cases were reviewed by a Judge but the Judge's decision has not been rendered. Four cases have the review date set for April 2000. In one case, the Judge referred the file back to the Commissioner to attempt an informal resolution. The informal resolution was unsuccessful and the file was returned to the Judge for a decision.

Public Hearing Before a Provincial Judge

In 1999 there were ten complaints referred to a Provincial Judge for a hearing. Six complaints are awaiting hearing dates, two have been set for March and April 2000. One case was heard in December 1999 and the allegation was dismissed. The last case started in December 1999 and has been adjourned to March 2000.

LERA as an Agency

The Law Enforcement Review Agency is an agency of the Manitoba Department of Justice, Public Safety Branch. LERA's address is:

200-379 Broadway Ave.
Winnipeg, Manitoba
R3C 0T9

Telephone: (204) 945-8667 or toll-free in Manitoba at 1-800-282-8069
Facsimile: (204) 948-2740

George V. Wright was appointed Commissioner in February 1998.

Wyman Sangster, Director of the Public Safety Branch provided administrative support.

Larry Yeske, Robert M. Tramley, Brian Savage and Robert Brakefield-Moore provided investigative support at various times during the year.

Lorraine De Baets is Registrar and administrative assistant.

Denis G. Guenétte, Crown Counsel, Civil Legal Services, Manitoba Department of Justice provides legal services to LERA.

Data Analysis

The number of public complaints continues to increase and the number of outstanding investigations being carried forward is also increasing.

The percentage of complaints resolved at intake or after preliminary investigation declined slightly, while the percentage requiring full investigation increased slightly.

The backlog of open files dating back to 1995 has been eliminated.

There was a substantial increase in the number of complaints resolved informally and a decrease in frivolous complaints. There was also a significant increase in the number of complaints abandoned or withdrawn by the complainant after investigation results were made known to them.

The average length of time to complete investigations on files closed in 1999 was 10 months. This can be attributed to having the equivalent of two investigators employed full time during the year as opposed to having one part-time investigator as in previous years.

Acknowledgements

- Members of the public who have made their complaints and concerns known to LERA.
- Complainants and respondents who are able to resolve their differences by way of informal resolution.
- The continued support and cooperation of the many stakeholders involved in the LERA process.
- The Chiefs of Police of Manitoba's Municipal Police Services.
- The Police Associations and members of Manitoba's Municipal Police Services.
- Legal counsel for both complainants and respondents.
- Department officials who have contributed their expertise in making LERA a more effective and efficient agency.
- The staff of LERA, whose competence and commitment is vital to LERA's success as a Civilian Oversight agency.
- Mr. Larry Yeske and Ms. Genevieve Michael for compiling this report.

Activities

During the year, the Commissioner met with several Municipal Police Chiefs and the Executive members of the Winnipeg Police Association and other stakeholders.

In February, the Commissioner and Mr. Yeske attended the Winnipeg Police Service Training Division and gave a presentation to recruit class #129 on *The Law Enforcement Review Act* and Civilian Oversight. The presentation was well received by the recruits and generated valuable discussion. Inspector R. Hall expressed appreciation on behalf of the Winnipeg Police Service to LERA for this endeavour. Attendance was also made at graduation ceremonies for recruit classes #128 and #129 during the year.

In September, the Commissioner attended the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) conference in Saint John, New Brunswick.

Overview

During 1999, LERA had a number of term investigators who provided two person years of full time work. This resulted in the elimination of the backlog of old files and a reduction of time to complete investigations from 14 months to 10 months. However, the continuing increase in complaints received presents a significant challenge. If this trend continues, the reduction of time to complete investigations will be eroded unless an additional investigator position is obtained.

In January 1998, the firm of KPMG recommended that a computerized case management system and an improved statistical database be implemented. This has been identified within the Department of Justice, however, to date, has not been achieved. The gathering of data for reports must be obtained manually as the current computer system is unreliable. As a business process, this is expensive and inefficient. The implementation of an improved computer system is a priority and must be addressed.

Client service was the major focus for the year. Clients expect to be treated with courtesy and respect, and are entitled to receive timely information, procedural fairness, and natural justice. Complaints must be handled in an effective and timely manner, and views heard.

LERA'S mission is to deliver a judicious, timely, impartial, client-oriented service to the public, and to the police services and police officers within its jurisdiction. While progress continues to be made in this regard, continued support from government and stakeholders is necessary.